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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 357 of 1992

with

CIVIL APPLICATION No 3008 of 1992

with

Appeal from Order No. 358 of 1992

with

Civil Application No.3009 of 1992

and

Appeal from Order No. 379 of 1992

with

Civil Application No. 3485 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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DINESHCHANDRA MAGANLAL PATEL

Versus

ISHWARLAL MAGANLAL PATEL  
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Appearance:

MR BHARAT J SHELAT for appellants in AO Nos. 357 and 358 of 1992 and for respondents in AO No. 379 of 1992

MR SB VAKIL for Respondent No. 1, 2, 3, 4, 5 in AO Nos. 357 and 358 of 1992 and for appellants in AO No. 379 of 1992.  
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CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 17/06/1999

COMMON ORAL JUDGEMENT

1. Appeals from Order Nos. 358 of 1992 and 379 of 1992 arise out of the order dated 8.5.1992 recorded below Ex.5 in Special Civil Suit No. 214 of 1991 by the learned Civil Judge (S.D.), Surat whereby the learned trial Judge was pleased to partly allow the said application for injunction in favour of the plaintiffs of that suit. Aggrieved by the said order, the original plaintiffs of that suit have preferred Appeals from Order Nos. 358 of 1992 while defendants of that suit have preferred Appeal from Order No. 379 of 1992.

2. Appeal from Order No. 357 of 1992 arise out of the order dated 8.5.1992 recorded below Ex.30 in the same suit whereby injunction in favour of the defendants as prayed for in that application was also granted. Aggrieved thereby, the plaintiffs have preferred Appeal from Order No. 357 of 1992.

3. Today, learned advocates Mr. Udyan P. Vyas for learned advocate Mr. B.J. Shelat for the appellants in Appeals from Order Nos. 357 of 1992 and 358 of 1992 and Mr. A.A.Gandhi for learned advocate Mr. S.B. Vakil for appellants in Appeal from Order No. 379 of 1992, are present. Both the learned advocates have jointly submitted that Special Civil Suit No. 214 of 1991 is settled between the parties and the compromise pursis Ex.82 submitted before the lower court has already been recorded and the suit is disposed of in terms of the compromise.

4. In view of the compromise arrived at between the parties, the Appeals from Order which arise out of the order passed below Exhibits No.5 and 30 of that suit do not survive. Therefore, all the three Appeals from Order are now required to be disposed of.

5. In view of the aforesaid state of affairs, since the Special Civil Suit No. 214 of 1991 is settled between the parties and the Special Civil Suit itself is disposed of in terms of the compromise, these Appeals from Order which are arising out of the orders passed in that suit, are now required to be disposed of as they do not survive.

6. Accordingly, all the above mentioned three Appeals from Order shall stand disposed of. Since the

matter is settled between the parties, there shall be no order as to costs. Copy of the compromise pursis submitted before the lower court vide Ex.82, which is also produced before this Court, is ordered to be retained on the record.

7. In view of the order passed in the Appeals from Order, there shall be no order on the Civil Applications.

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